

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

UNITED SERVICES AUTOMOBILE
ASSOCIATION,

Plaintiff,

V.

PNC BANK N.A.,

Defendant.

Case No. 2:20-cv-00319-JRG (Lead)

Case No. 2:21-cv-110-JRG

JURY TRIAL DEMANDED

FILED UNDER SEAL

**DECLARATION OF STEPHEN PAYNE IN SUPPORT OF PLAINTIFF UNITED
SERVICES AUTOMOBILE ASSOCIATION’S MOTION TO STRIKE EXPERT
REPORT OF OMID KIA**

I, Stephen Payne, declare as follows:

1. I am an attorney at the law firm of Irell & Manella LLP, counsel for United Services Automobile Association (“USAA”) in the above-captioned action. I am a member in good standing of the State Bar of California and have been admitted to practice *pro hac vice* before this Court in this action. I provide this declaration in support of Plaintiff’s Motion to Strike Expert Report of Omid Kia. I have personal knowledge of the information set forth herein and could and would testify competently thereto if called as a witness.

2. Attached as **Exhibit 1** is a true and correct copy of excerpts of the Expert Report of Omid Kia dated November 24, 2021.

3. Attached as **Exhibit 2** is a true and correct copy of PNC Bank N.A.’s Invalidity and Subject Matter Contentions in Civil Action No. 2:21-cv-00110-JRG dated May 17, 2021.

4. Attached as **Exhibit 3** is a true and correct copy of PNC Bank N.A.’s First Supplemental Invalidity and Subject Matter Contentions in Civil Action No. 2:20-cv-00319-JRG dated May 3, 2021.

5. Attached as **Exhibit 4** is a true and correct copy of PNC Bank N.A.’s Invalidity and Subject Matter Contentions in Civil Action No. 2:20-cv-00319-JRG dated March 3, 2021.

6. Attached as **Exhibit 5** is a true and correct copy of excerpts of PNC Bank N.A.’s Sixth Supplemental Response to USAA’s First Set of Interrogatories dated November 15, 2021.

7. Attached as **Exhibit 6** is a true and correct copy of excerpts of Exhibit 22 to the Expert Report of Omid Kia dated November 24, 2021.

8. Attached as **Exhibit 7** is a true and correct copy of excerpts of the transcript from the January 3, 2022 deposition of Omid E. Kia, Ph.D.

9. Attached as **Exhibit 8** is a true and correct copy of excerpts of U.S. Patent No. 7,873,200.

10. Attached as **Exhibit 9** is a true and correct copy of excerpts of PNC_0041580, the Samsung Omnia User Manual.

11. Attached as **Exhibit 10** is a true and correct copy of excerpts of PNC_0041996, the Motomanual for MotoRokr E6.

12. Attached as **Exhibit 11** is a true and correct copy of excerpts of PNC_0040644, The V User Guide.

13. Attached as **Exhibit 12** is a true and correct copy of excerpts of the transcript from the November 11, 2021 deposition of Fred Fernandez.

14. Attached as **Exhibit 13** is a true and correct copy of excerpts of the transcript from the November 11, 2021 deposition of Kevin Williams.

15. Attached as **Exhibit 14** is a true and correct copy of Defendant's Notice of Intent to Serve Subpoena on Mitek Systems, Inc. dated March 8, 2021.

16. Attached as **Exhibit 15** is a true and correct copy of excerpts of MITEK-PNC-00009995, ImageNet Mobile Deposit Server Administration and Operations Guide.

17. Attached as **Exhibit 16** is a true and correct copy of MITEK-PNC-00011013, ImageNet Mobile Deposit Kick-Off Plan v. 4.0.

18. Attached as **Exhibit 17** is a true and correct copy of excerpts of MITEK-PNC-00012104, ImageNet Mobile Deposit Getting Started Guide for iPhone Users.

19. Attached as **Exhibit 18** is a true and correct copy of excerpts of MITEK-PNC-00012038, ImageNet Mobile Deposit Getting Started Guide for Blackberry Users.

20. Attached as **Exhibit 19** is a true and correct copy of excerpts of MITEK-PNC-00012164, ImageNet Mobile Deposit Getting Started Guide for Motorola Users.

21. Attached as **Exhibit 20** is a true and correct copy of excerpts of MITEK-PNC-00012238, ImageNet Mobile Deposit Getting Started Guide for Nokia/Symbian Users.

22. Attached as **Exhibit 21** is a true and correct copy of excerpts of MITEK-PNC-00012312, ImageNet Mobile Deposit Getting Started Guide for Windows Mobile Users.

23. Attached as **Exhibit 22** is a true and correct copy of excerpts of MITEK-PNC-00013704, ImageNet Mobile Specifications.

24. Attached as **Exhibit 23** is a true and correct copy of excerpts of the transcript from the November 8, 2021 deposition of Todd Barnhart.

25. Attached as **Exhibit 24** is a true and correct copy of excerpts of PNC_0000113, PNC Remote Deposits Help.

26. Attached as **Exhibit 25** is a true and correct copy of excerpts of PNC_0041206, DepositNow Bank Reseller and Services Agreement.

27. Attached as **Exhibit 26** is a true and correct copy of excerpts of PNC_0041174, DepositNow Key Business Initiative Executive Summary.

28. Attached as **Exhibit 27** is a true and correct copy of Defendant PNC Bank, N.A.'s Supplemental Election of Prior Art dated October 22, 2021.

29. Attached as **Exhibit 28** is a true and correct copy of PNC_0042161, RemoteDepositCapture.com article "Remote Deposit Capture Goes Mobile: Mitek Systems Launches First Mobile Check Deposit and Bill Pay Application."

Executed on January 19, 2022 at Newport Beach, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Stephen Payne
Stephen Payne